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BEFORE THE  
DIVISION OF MEDICAL QUALITY  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation filed )  
Against: )

**AVINASH M. MONDKAR, M.D.** )  
Certificate No. A-35142 )

No: 17-2000-115388

Respondent )

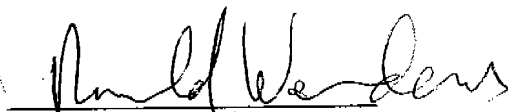
**DECISION**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Division of Medical Quality as its Decision in the above-entitled matter.

This Decision shall become effective at 5:00 p.m. on January 16, 2003

IT IS SO ORDERED December 17, 2002

By:



**RONALD WENDER, M.D.**

Chair - Panel B

Division of Medical Quality

1 BILL LOCKYER, Attorney General  
of the State of California  
2 KAREN B. CHAPPELLE, State Bar No. 141267  
Deputy Attorney General  
3 California Department of Justice  
300 So. Spring Street, Suite 1702  
4 Los Angeles, CA 90013  
Telephone: (213) 897-8944  
5 Facsimile: (213) 897-1071

6 Attorneys for Complainant

7  
8 **BEFORE THE**  
9 **DIVISION OF MEDICAL QUALITY**  
10 **MEDICAL BOARD OF CALIFORNIA**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

12 AVINASH M. MONDKAR, M.D.  
13 8641 Wilshire Blvd. Suite 220  
Beverly Hills, CA 90211

14 Physician & Surgeon Certificate No. A 35142

15 Respondent.

Case No. 17-00-115388

OAH No. L-2002-050339

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

16  
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
18 entitled proceedings that the following matters are true:

19 PARTIES

20 1. Ron Joseph (Complainant) is the Executive Director of the Medical Board of  
21 California. He brought this action solely in his official capacity and is represented in this matter  
22 by Bill Lockyer, Attorney General of the State of California, by Karen B. Chappelle, Deputy  
23 Attorney General.

24 2. Respondent Avinash M. Mondkar, M.D. (Respondent) is represented in this  
25 proceeding by attorney Michael A. Zuk, whose address is HERZFELD & RUBIN LLP, 1925  
26 Century Park East, Suite 600, Los Angeles, Calif. 90067-2783.

27 3. On or about April 7, 1980, the Medical Board of California issued Physician &  
28 Surgeon Certificate No. A 35142 to Avinash M. Mondkar, M.D. (Respondent). The Certificate

1 was in full force and effect at all times relevant to the charges brought in Accusation No.  
2 17-00-115388 and will expire on November 30, 2003, unless renewed.

3 JURISDICTION

4 4. Accusation No. 17-00-115388 was filed before the Division of Medical Quality  
5 (Division), Medical Board of California, Department of Consumer Affairs,, and is currently  
6 pending against Respondent. The Accusation and all other statutorily required documents were  
7 properly served on Respondent on April 5, 2002. Respondent timely filed his Notice of Defense  
8 contesting the Accusation. A copy of Accusation No. 17-00-115388 is attached as exhibit A and  
9 incorporated herein by reference. This stipulation is intended to resolve the current Accusation  
10 No. 17-00-115388 as well as investigation No. 07-02-136137 which is in the early stages of  
11 investigation.

12 ADVISEMENT AND WAIVERS

13 5. Respondent has carefully read, fully discussed with counsel, and understands the  
14 charges and allegations in Accusation No. 17-00-115388. Respondent has also carefully read,  
15 fully discussed with counsel, and understands the effects of this Stipulated Settlement and  
16 Disciplinary Order.

17 6. Respondent is fully aware of his legal rights in this matter, including the right to a  
18 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at  
19 his own expense; the right to confront and cross-examine the witnesses against him; the right to  
20 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to  
21 compel the attendance of witnesses and the production of documents; the right to reconsideration  
22 and court review of an adverse decision; and all other rights accorded by the California  
23 Administrative Procedure Act and other applicable laws.

24 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each  
25 and every right set forth above.

26 CULPABILITY

27 8. Respondent admits the truth of each and every charge and allegation in  
28 Accusation No. 17-00-115388.

9. Respondent agrees that his Physician & Surgeon Certificate is subject to discipline and he agrees to be bound by the Division's imposition of discipline as set forth in the Disciplinary Order below.

## CONTINGENCY

10. This stipulation shall be subject to approval by the Division of Medical Quality. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Division regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Division considers and acts upon it. If the Division fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Division shall not be disqualified from further action by having considered this matter.

11. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

12. In consideration of the foregoing admissions and stipulations, the parties agree that the Division may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

## DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician & Surgeon Certificate No. A 35142 issued to Respondent Avinash M. Mondkar, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

Within 15 days after the effective date of this decision the respondent shall provide the Division, or its designee, proof of service that respondent has served a true copy of this decision on the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to respondent or at any other facility where respondent engages in the

1 practice of medicine and on the Chief Executive Officer at every insurance carrier where  
2 malpractice insurance coverage is extended to respondent.

3 1. ETHICS COURSE Within sixty (60) days of the effective date of this decision,  
4 respondent shall enroll in a course in Ethics approved in advance by the Division or its designee,  
5 and shall successfully complete the course during the first year of probation.

6 2. ORAL CLINICAL EXAMINATION Respondent shall take and pass an oral  
7 clinical exam in a subject to be designated and administered by the Division or its designee. This  
8 examination shall be taken within 60 days after the effective date of this decision. If respondent  
9 fails the first examination, respondent shall be allowed to take and pass a second examination,  
10 which may consist of a written as well as an oral examination. The waiting period between the  
11 first and second examinations shall be at least three months. If respondent fails to pass the first  
12 and second examinations, respondent may take a third and final examination after waiting a  
13 period of one year. Failure to pass the oral clinical examination within 18 months after the  
14 effective date of this decision shall constitute a violation of probation. The respondent shall pay  
15 the costs of all examinations.

16 3. CONDITION SUBSEQUENT If respondent fails to pass the first examination,  
17 respondent shall be suspended from the practice of medicine. The respondent shall cease the  
18 practice of medicine within 72 hours of being given notice by the Division or its designee that  
19 respondent has failed the examination. Respondent shall remain suspended from the practice of  
20 medicine until a repeat examination has been successfully passed, as evidenced by written notice  
21 to respondent from the Division or its designee.

22 4. BOARD CERTIFICATION In lieu of the physician competency requirement  
23 contained in item (2) above, respondent is required to pass the American Board of Internal  
24 Medicine during the (3) three year period of probation, although the results may not be available  
25 until the probation period has ended, so long as the examination is taken during the period of  
26 probation. If, however, the results are pending at the time of the conclusion of termination of the  
27 period of probation, the failure of such examination will result in revocation of probation. The  
28 requirement for board certification are included in Exhibit "B." It should be noted that the board

1 certification requirement is set forth at the voluntary request of Dr. Monkar in order that he may  
2 further demonstrate physician competency.

3 5. SUPERVISION OF PHYSICIAN ASSISTANTS During probation, respondent is  
4 prohibited from supervising physician assistants.

5 6. OBEY ALL LAWS Respondent shall obey all federal, state and local laws, all  
6 rules governing the practice of medicine in California, and remain in full compliance with any  
7 court ordered criminal probation, payments and other orders.

8 7. QUARTERLY REPORTS Respondent shall submit quarterly declarations under  
9 penalty of perjury on forms provided by the Division, stating whether there has been compliance  
10 with all the conditions of probation.

11 8. PROBATION SURVEILLANCE PROGRAM COMPLIANCE Respondent shall  
12 comply with the Division's probation surveillance program. Respondent shall, at all times, keep  
13 the Division informed of his business and residence addresses which shall both serve as  
14 addresses of record. Changes of such addresses shall be immediately communicated in writing to  
15 the Division. Under no circumstances shall a post office box serve as an address of record,  
16 except as allowed by Business and Professions Code section 2021(b).

17 Respondent shall, at all times, maintain a current and renewed physician's and surgeon's  
18 license.

19 Respondent shall also immediately inform the Division, in writing, of any travel to any  
20 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than  
21 thirty (30) days.

22 9. INTERVIEW WITH THE DIVISION, ITS DESIGNEE OR ITS DESIGNATED  
23 PHYSICIAN(S) Respondent shall appear in person for interviews with the Division, its  
24 designee or its designated physician(s) upon request at various intervals and with reasonable  
25 notice.

26 10. TOLLING FOR OUT-OF-STATE PRACTICE, RESIDENCE OR IN-STATE  
27 NON-PRACTICE In the event respondent should leave California to reside or to practice  
28 outside the State or for any reason should respondent stop practicing medicine in California,

1 respondent shall notify the Division or its designee in writing within ten (10) days of the dates of  
2 departure and return or the dates of non-practice within California. Non-practice is defined as  
3 any period of time exceeding thirty (30) days in which respondent is not engaging in any  
4 activities defined in Sections 2051 and 2052 of the Business and Professions Code. All time  
5 spent in an intensive training program approved by the Division or its designee shall be  
6 considered as time spent in the practice of medicine. A Board-ordered suspension of practice  
7 shall not be considered as a period of non-practice. Periods of temporary or permanent residence  
8 or practice outside California or of non-practice within California, as defined in this condition,  
9 will not apply to the reduction of the probationary order.

10 11. COMPLETION OF PROBATION Upon successful completion of probation,  
11 respondent's certificate shall be fully restored.

12 12. VIOLATION OF PROBATION If respondent violates probation in any respect,  
13 the Division, after giving respondent notice and the opportunity to be heard, may revoke  
14 probation and carry out the disciplinary order that was stayed. If an accusation or petition to  
15 revoke probation is filed against respondent during probation, the Division shall have continuing  
16 jurisdiction until the matter is final, and the period of probation shall be extended until the matter  
17 is final.

18 13. COST RECOVERY The respondent is hereby ordered to reimburse the Division  
19 the amount of \$2,500 payment due for cost of investigation within ninety (90) days of the  
20 effective date of this decision for its investigative and prosecution costs. Failure to reimburse the  
21 Division's cost of investigation and prosecution shall constitute a violation of the probation order,  
22 unless the Division agrees in writing to payment by an installment plan because of financial  
23 hardship. The filing of bankruptcy by the respondent shall not relieve the respondent of his  
24 responsibility to reimburse the Division for its investigative and prosecution costs.

25 14. PROBATION COSTS Respondent shall pay the costs associated with probation  
26 monitoring each and every year of probation, as designated by the Division, which are currently  
27 set at \$2,488.00, but may be adjusted on an annual basis. Such costs shall be payable to the  
28 Division of Medical Quality and delivered to the designated probation surveillance monitor no

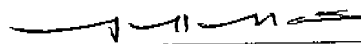
1 later than January 31 of each calendar year. Failure to pay costs within 30 days of the due date  
2 shall constitute a violation of probation.

3 15. LICENSE SURRENDER Following the effective date of this decision, if  
4 respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy  
5 the terms and conditions of probation, respondent may voluntarily tender his certificate to the  
6 Board. The Division reserves the right to evaluate the respondent's request and to exercise its  
7 discretion whether to grant the request, or to take any other action deemed appropriate and  
8 reasonable under the circumstances. Upon formal acceptance of the tendered license, respondent  
9 will not longer be subject to the terms and conditions of probation.

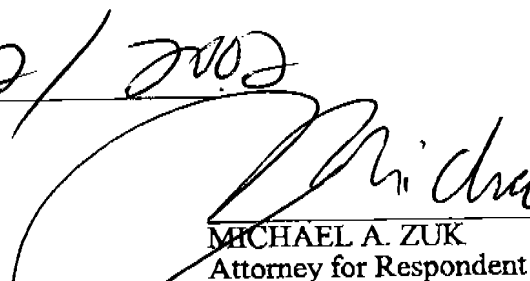
10 ACCEPTANCE

11 I have carefully read the above Stipulated Settlement and Disciplinary Order and  
12 have fully discussed it with my attorney, Michael A. Zuk. I understand the stipulation and the  
13 effect it will have on my Physician & Surgeon Certificate. I enter into this Stipulated Settlement  
14 and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the  
15 Decision and Order of the Division of Medical Quality, Medical Board of California.

16 DATED: 10/4/02

17  
18   
19 AVINASH M. MONDKAR, M.D.  
20 Respondent

21 I have read and fully discussed with Respondent Avinash M. Mondkar, M.D., the terms  
22 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary  
23 Order. I approve its form and content.

24  
25 DATED: 10/2/2002  
26  
27   
28 MICHAEL A. ZUK  
Attorney for Respondent

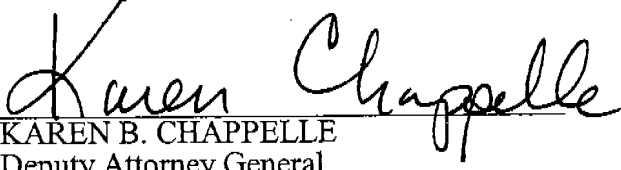


ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Division of Medical Quality, Medical Board of California of the Department of Consumer Affairs.

DATED: 10/10/02

BILL LOCKYER, Attorney General  
of the State of California

  
KAREN B. CHAPPELLE  
Deputy Attorney General

Attorneys for Complainant

## **EXHIBIT A**

BILL LOCKYER, Attorney General  
of the State of California  
KAREN B. CHAPPELLE, State Bar No. 141267  
Deputy Attorney General  
California Department of Justice  
300 So. Spring Street, Suite 1702  
Los Angeles, CA 90013  
Telephone: (213) 897-8944  
Facsimile: (213) 897-1071

Attorneys for Complainant

BEFORE THE  
DIVISION OF MEDICAL QUALITY  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

AVINASH M. MONDKAR, M.D.  
8641 Wilshire Blvd. Suite 220  
Beverly Hills, CA 90211

Physician & Surgeon Certificate No. A 35142

Respondent.

Case No. 17-00-115388

OAH No. L-

**A C C U S A T I O N**

Complainant alleges:

PARTIES

1. Ron Joseph (Complainant) brings this Accusation solely in his official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs.

2. On or about April 7, 1980, the Medical Board of California issued Physician & Surgeon Certificate No. A 35142 to Avinash M. Mondkar, M.D. (Respondent). The Physician & Surgeon Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on November 30, 2003, unless renewed.

JURISDICTION

3. This Accusation is brought before the Division of Medical Quality, Medical Board of California (Division), under the authority of the following sections of the Business and Professions Code (Code).

1           4.       Section 2227 of the Code provides that a licensee who is found guilty under the  
2 Medical Practice Act may have his or her license revoked, suspended for a period not to exceed  
3 one year, placed on probation and required to pay the costs of probation monitoring, or such  
4 other action taken in relation to discipline as the Division deems proper.

5           5.       Section 2234 of the Code states:

6                “The Division of Medical Quality shall take action against any licensee who is  
7 charged with unprofessional conduct. In addition to other provisions of this article,  
8 unprofessional conduct includes, but is not limited to, the following:

9                “(a) Violating or attempting to violate, directly or indirectly, or assisting in or  
10 abetting the violation of, or conspiring to violate, any provision of this chapter [Chapter  
11 5, the Medical Practice Act].

12               “(b) Gross negligence.

13               “(c) Repeated negligent acts.

14               “(d) Incompetence.

15               “(e) The commission of any act involving dishonesty or corruption which is  
16 substantially related to the qualifications, functions, or duties of a physician and surgeon.

17               “(f) Any action or conduct which would have warranted the denial of a  
18 certificate.”

19           6.       Section 2262 of the Code states:

20                “Altering or modifying the medical record of any person, with fraudulent intent,  
21 or creating any false medical record, with fraudulent intent, constitutes unprofessional  
22 conduct.

23                “In addition to any other disciplinary action, the Division of Medical Quality or  
24 the California Board of Podiatric Medicine may impose a civil penalty of five hundred  
25 dollars (\$500) for a violation of this section.”

26           7.       Section 14124.12 of the Welfare and Institutions Code states, in pertinent part:

27                “(a) Upon receipt of written notice from the Medical Board of California, the  
28 Osteopathic Medical Board of California, or the Board of Dental Examiners of California,

1 that a licensee's license has been placed on probation as a result of a disciplinary action,  
2 the department may not reimburse any Medi-Cal claim for the type of surgical service or  
3 invasive procedure that gave rise to the probation, including any dental surgery or  
4 invasive procedure, that was performed by the licensee on or after the effective date of  
5 probation and until the termination of all probationary terms and conditions or until the  
6 probationary period has ended, whichever occurs first. This section shall apply except in  
7 any case in which the relevant licensing board determines that compelling circumstances  
8 warrant the continued reimbursement during the probationary period of any Medi-Cal  
9 claim, including any claim for dental services, as so described. In such a case, the  
10 department shall continue to reimburse the licensee for all procedures, except for those  
11 invasive or surgical procedures for which the licensee was placed on probation."

12 8. Section 125.3 of the Code provides, in pertinent part, that the Division may  
13 request the administrative law judge to direct a licentiate found to have committed a violation or  
14 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
15 and enforcement of the case.

#### 16 **FIRST CAUSE FOR DISCIPLINE**

17 (Gross Negligence)

18 9. Respondent is subject to disciplinary action under section 2234, subdivision (b) of  
19 the Code in that he committed acts of gross negligence in his care, management and treatment of  
20 patient M.H.,<sup>1</sup> deceased. The circumstances are as follows:

21 A. On or about February 1995 through December 1999, 79 year-old female  
22 patient M.H. saw respondent as her primary care physician. M.H. had multiple medical problems  
23 including hypertension, hemorrhoids, hiatal hernia, diverticulosis, anxiety, gastrointestinal  
24 bleeding, glaucoma, transient ischemic attack, and history of umbilical hernia repair.

25 B. From 1996 through 1999, M.H. had multiple blood transfusions. During  
26

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27 1. The full name of the patient is available to respondent upon a timely request for  
28 discovery under Government Code section 11507.6.

1 a six day period of hospitalization in March 1997, M.H. had a hemoglobin of 6.5 and hematocrit  
2 of 20.6. The percentage of the "MID" cells increased from 7.2 to 16.2. Respondent performed  
3 colonoscopy and esophagogastroduodenoscopy, which revealed no active bleeding. During this  
4 six day hospitalization, M.H. received four units of blood transfusion.

5 C. In or about March 1999, M.H.'s CBC showed "MID" cells to be 27.4%,  
6 white cell count 5,800, platelets 149,000, hemoglobin 10.6, and hematocrit 32.6. M.H. again  
7 underwent esophagogastroduodenoscopy which failed to show the source of bleeding.

8 D. In or about October 1999, M.H. had a hemoglobin of 7.9, hematocrit 24.2,  
9 platelet count 52,000, white cell count 2,000, "MID" cells 22.8 and granulocytes 28.6.

10 E. On or about October 19, 1999, a laboratory result included a handwritten  
11 note by Respondent indicating "referred to Dr. Rosenbloom." However, this note was  
12 contradicted by information that M.H. had been referred to Dr. Rosenbloom by the  
13 gastroenterologist, Dr. Goldwater, for hematology evaluation on November 15, 1999- not by  
14 Respondent on October 19, 1999.

15 F. Respondent explained the discrepancy in this notation by admitting that he  
16 wrote the note "later, somewhere along the line."

17 G. In or about November 1999, Dr. Rosenbloom diagnosed M.H. with  
18 myelodysplasia. M.H. died on December 25, 1999 at the age of 84.

19 H. The standard of care for treating a patient with chronic anemia caused by  
20 possible gastrointestinal bleeding is the conducting of esophagogastroduodenoscopy as well as  
21 colonoscopy. If after repeated tests abnormal findings such as CBC results, increased "MID"  
22 cells, decreased platelets, and decreased white cell count cannot be explained by gastrointestinal  
23 blood loss, then a hematologic evaluation is necessary to rule out hematologic disorder causing  
24 anemia.

25 I. During Respondent's care, treatment and management of Patient M.H.,  
26 Respondent committed acts or omissions, both individually and collectively, constituting gross  
27 negligence and which included, but were not limited to the following: (1) Respondent failed to  
28 adequately document the history, physical examination, and diagnostic/treatment plan for the

1 patient; (2) Respondent failed to get a hematological evaluation of M.H. (3) Respondent failed  
2 to maintain adequate records, and (4) Respondent altered medical records by adding notations  
3 and failing to acknowledge that he had done so in the records..

## 4 SECOND CAUSE FOR DISCIPLINE

5 (Incompetence)

6 10. Respondent is subject to disciplinary action under section 2234, subdivision (d)  
7 for incompetence in that he demonstrated a lack of skill or knowledge of the subject matter in his  
8 care, management and treatment of patient M.H. The circumstances are as follows:

9 A. Complainant refers to, and by this reference, incorporates the facts and  
10 allegations contained in paragraph 9, subparagraphs A through I, inclusive, above as though set  
11 forth fully.

## 12 THIRD CAUSE FOR DISCIPLINE

13 (Alteration of Medical Records)

14 11. Respondent is subject to disciplinary action under section 2262 of the Code in that  
15 he altered the medical records for patient M.H. by adding information at a later date and failing  
16 to acknowledge on the medical record that it was added at a later time. The circumstances are  
17 as follows:

18 A. Complainant refers to, and by this reference, incorporates the facts and  
19 allegations contained in paragraph 9, subparagraphs A through I, inclusive, above, as though set  
20 forth fully.

## 21 FOURTH CAUSE FOR DISCIPLINE

22 (Unprofessional Conduct)

23 12. Respondent is subject to disciplinary action under section 2234 of the Code, in  
24 that he demonstrated unprofessional conduct in his care, management and treatment of patient  
25 M.H. The circumstances are as follows:

26 A. Complainant refers to, and by this reference incorporates the facts and  
27 allegations set forth in paragraph 9, subparagraphs A through I, as though set forth fully.

28 ///

1 PRAYER

2 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein  
3 alleged, and that following the hearing, the Division of Medical Quality issue a decision:


4 1. Revoking or suspending Physician & Surgeon Certificate No. A 35142, issued to  
5 **Avinash M. Mondkar, M.D.**;

6 2. Revoking, suspending or denying approval of **Avinash M. Mondkar, M.D.**'s  
7 authority to supervise physician's assistants, pursuant to section 3527 of the Code;

8 3. Ordering **Avinash M. Mondkar, M.D.** to pay the Division of Medical Quality the  
9 reasonable costs of the investigation and enforcement of this case, and, if placed on probation,  
10 the costs of probation monitoring;

11 4. Taking such other and further action as deemed necessary and proper.

12  
13 DATED: April 15, 2002.

14  
15   
16 RON JOSEPH  
17 Executive Director  
18 Medical Board of California  
19 Department of Consumer Affairs  
20 State of California  
21 Complainant  
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